

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 25-53 are pending in the present application. No claims are canceled or amended.

In the outstanding Office Action, the specification was objected to; Claims 25-37, 39-41, 43-45, 48 and 51 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1-6, 13, 14, 16 and 17 of copending U.S. Patent Application No. 09/940,462; and Claims 25-53 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Publication No. 2002/0032790 to Linderman in view of Applicant's Admitted Art (herein AA).

Regarding the objection to the specification, Applicant respectfully notes that the specification changes requested in the outstanding Office Action were made in Applicant's Amendment filed February 10, 2005. Accordingly, Applicant respectfully requests the objection to the specification be withdrawn.

Further, regarding the non-statutory double patenting rejection of Claims 25-37, 39-41, 43-45, 48 and 51 over Claims 1-6, 13, 14, 16 and 17 of U.S. Patent Application No. 09/940,462, the rejection is respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicant's filing of the attached disclaimer is provided

for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Applicant respectfully traverses the rejection of Claims 25-53 under 35 U.S.C. § 103(a) as unpatentable over Linderman in view of AA.

The present application claims priority from French Patent Application No. 00/11320, filed August 31, 2000. In accordance with 37 C.F.R. § 1.55(a)(4), an English translation of the certified copy of that application is enclosed, along with a statement that the translation of the certified copy is accurate. (A certified copy of this application was previously submitted.) Applicant respectfully submits that the enclosed documents perfect the claim to priority to French Patent Application No. 00/11320 under 35 U.S.C. § 119. The filing date of French Patent Application No. 00/11320, August 31, 2000, antedates the filing date of July 9, 2001 of Linderman. Therefore, Applicant respectfully submits that Linderman does not qualify as prior art with respect to the present application under 35 U.S.C. § 103. However, U.S. Provisional Application No. 60/208,045 was filed May 31, 2000. Accordingly, application of the Linderman reference in this obviousness rejection is improper, and only the disclosure of U.S. Provisional Application No. 60/208,045 (herein "P '045"), a copy of which is enclosed for your convenience, will be treated herein.

Claim 25 is directed to a communication system including:

- automation equipment having at least one processing unit configured to execute at least one automation program and at least one web service, said automation program configured to provide an automation function and said web service configured to provide a remote access to the automation function;

- remote equipment configured to communicate with the automation equipment over an IP network;

- a computer application configured to execute on the remote equipment and to communicate with the at least one web service to provide a remote automation function to the remote equipment, said remote automation function including at least one of monitoring, display, control, configuration, and programming of the automation function provided by the automation program on the automation equipment using the remote access of the web service; and

said remote automation function being based on at least one service description document configured to describe capabilities of the at least one web service using a WSDL (Web Services Description Language) language.

Claim 48 includes similar features.

The outstanding Office Action asserts that Linderman and AA describe each claimed feature. However, Applicant respectfully submits that P '045 does not teach or suggest the features that the outstanding Office Action relies on Linderman to disclose. Further, AA also does not teach or suggest those features. P '045 does not include any figures and only includes a general discussion of a product called "DaberNet." Thus, for example, P '045 and AA do not teach or suggest any "automation equipment . . . configured to execute at least one automation program and at least one web service" and does not teach or suggest "a computer application configured to . . . provide a remote automation function . . . including at least one of monitoring, display, control, configuration, and programming of the automation function," as recited in Claim 25 and as similarly recited in Claim 48.

Further, P '045 and AA also do not teach or suggest each feature of the dependent claims. For example, P '045 and AA are silent regarding any automation equipment that includes at least one of a programmable logic controller, a numeric controller, an instrumentation station, and a control station, as recited in Claims 45 and 52. In addition, P '045 and AA are silent regarding any automation function that includes at least one of an industrial control function, a building automation function, an instrumentation for electrical distribution networks function, and a control for electrical distribution networks function, as recited in Claims 46 and 53.

Accordingly, at least for the reasons discussed above, Applicant respectfully submits that independent Claims 25 and 48, and claims depending therefrom, are allowable.

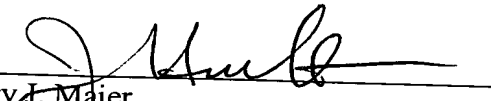
Consequently, in light of the above discussion the present application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)
GJM:ZSS:dnf



Gregory J. Maier
Attorney of Record
Registration No. 25,599

Zachary S. Stern
Registration No. 54,719

James D. Hamilton
Registration No. 28,421